

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

UNITED STATES OF AMERICA) CR. NO.1:CR-04-020
) 1:CR-05-100
) (Judge Caldwell)
v.)
)
TYRONE POOLE) (Electronically Filed)

**GOVERNMENT'S RESPONSE IN OPPOSITION TO MOTION FOR RELIEF PURSUANT
TO TITLE 18 UNITED STATES CODE SECTION 3582(c)**

AND NOW comes the United States of America, by its undersigned counsel and submits the following Response to the Defendant's Motion for Relief pursuant to Title 18 United States Code, Section 3582(c), setting forth the following material factors in support thereof:

1. The defendant was previously convicted and sentenced for offenses involving the distribution of cocaine base, also known as crack cocaine.

2. The defendant was originally sentenced to a combined term of 132 months' imprisonment, a sentence which represented the guideline range that applied as the range, without the charge bargain, would have either been 210-262 months' imprisonment or 168-210 months imprisonment. That guideline imprisonment range of 132 months was based upon the Court's finding that the defendant's

offense level was 32 and the defendant's criminal history category was IV.

3. Following imposition of this sentence, in December 2007, the United States Sentencing Commission enacted an amendment to the sentencing guidelines, Amendment 706, which reduced the guidelines offense level for drug distribution and conspiracy offenses involving cocaine base by two offense levels and further provided that this amendment applied retroactively to defendants who were sentenced before the effective date of this amended guideline.

4. The defendant has now moved pursuant to Title 18, United States Code, Section 3582(c), for relief in accordance with this amended guidelines provision.

5. Upon review of the defendant's motion and the underlying facts of this case, the United States believes that the defendant is not entitled to request some relief pursuant to Title 18, United States Code, Section 3582(c) since the defendant received a charge bargain in this matter. Additionally, even if the defendant received a 2-level reduction the new guideline range would be

135-168 months which is still greater than the sentence imposed of
132 months.

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Dated: June 30, 2008

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that she is an employee in the Office of the United States Attorney for the Middle District of Pennsylvania and is a person of such age and discretion to be competent to serve papers.

That this 30th day of June, 2008 she served a copy of the attached

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by electronic means and/or by placing said copy in a postpaid envelope addressed to the person hereinafter named, at the place and address stated below, which is the last known address, and by depositing said envelope and contents in the United States Mail at Harrisburg, Pennsylvania to:

Tyrone Poole #12234-067
FCI Allenwood - Med.
P.O. Box 2000
White Deer, PA 17887

s/Phyllis M. Mitchell
PHYLLIS M. MITCHELL
Supervisory Legal Assistant